

MDR Tracking Number: M5-04-1265-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on January 7, 2004

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The work hardening/conditioning initial and work hardening/conditioning each additional hour were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This findings and decision is hereby issued this 23<sup>rd</sup> day of March 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 01/08/03 through 02/14/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 23<sup>rd</sup> day of March 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/pr

March 18, 2004

## NOTICE OF INDEPENDENT REVIEW DECISION

**RE: MDR Tracking #: M5-04-1265-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the \_\_\_ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The \_\_\_ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

### Clinical History

This case concerns a 48 year-old male who sustained a work related injury on \_\_\_. The patient reported that while at work he injured his back when he attempted to lift a wheel barrel full of concrete. An MRI dated 10/29/01 of the lumbar spine indicated degeneration of the L3-4, L4-5 and L5-S1 discs with posterior herniation of the L5-S1 disc medially and to the left side touching the thecal sac. On 11/15/01 the patient presented to the treating chiropractor's office. He underwent x-rays of the lumbosacral area that showed decreased disc space at L4-L5 and lumbar lordosis. The initial diagnoses for this patient included rupture or herniation of lumbar disc, radiculitis (lumbar), lumbar sprain/strain, and muscle spasm. Initial treatment for this patient's condition included chiropractic manipulations and physical therapy. On 12/18/01 the patient underwent an MRI of the lumbar spine that showed a broad-based posterior protrusion of the disc at the L5-S1 level, more prominent on the left, degenerative arthritis, broad-based posterior protrusion of the disc at the L4-L5 level, and slight degenerative facet arthritis. An EMG performed on 3/21/02 indicated bilateral L4-L5 and L5-S1 radiculopathy. On 3/25/02 the patient underwent a lumbar laminectomy, decompression, facetectomy and intra-body fusion, followed by postoperative rehabilitation consisting of both passive and active components. On 1/6/03 the patient began a work hardening/conditioning program.

### Requested Services

Hardening/conditioning initial, work hardening/conditioning each additional hour from 1/8/03 through 2/14/03.

### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

### Rationale/Basis for Decision

The \_\_\_ chiropractor reviewer noted that this case concerns a 48 year-old male who sustained a work related injury to his back on \_\_\_. The \_\_\_ chiropractor reviewer also noted that the patient underwent a lumbar laminectomy, decompression, facetectomy and intra-body fusion on 3/25/02. The \_\_\_ chiropractor reviewer further noted that postoperatively the patient was treated with rehabilitation consisting of both passive and active components, and a work conditioning/work hardening program. The \_\_\_ chiropractor reviewer explained that this patient sustained an extensive injury to his back. The \_\_\_ chiropractor reviewer also explained that the patient underwent a complicated surgery for treatment of his work related injury that required follow up rehabilitation and continued treatment in a work conditioning/hardening program. Therefore, the \_\_\_ chiropractor consultant concluded that the work hardening/conditioning initial, work hardening/conditioning each additional hour from 1/8/03 through 2/14/03 were medically necessary to treat this patient's condition.

Sincerely,